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STATE OF INDIANA INDIANA UTILITY REGULATORY COMMISSION

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IN THE MATTER OF THE PETITION OF THE)	, • • •
CITY OF RICHMOND, INDIANA, BY ITS)	
MUNICIPAL ELECTRIC UTILITY,)	CAUSE NO. 42713
RICHMOND POWER & LIGHT FOR)	
APPROVAL OF A NEW SCHEDULE OF RATES)	APPROVED: FEB 0 9 2005
AND CHARGES FOR ELECTRIC SERVICE	À	1 20 0 0 2000

BY THE COMMISSION

David E. Ziegner, Commissioner William G. Divine, Administrative Law Judge

On August 19, 2004, the City of Richmond, Indiana ("City"), by its municipal electric utility ("Petitioner" or "RP&L") filed with the Indiana Utility Regulatory Commission ("Commission") its Petition for authority to increase its rates and charges for electric utility service and for approval of a new schedule of rates and charges applicable thereto. Pursuant to notice given, a Prehearing Conference was held on September 22, 2004, at 10:30 a.m. in Room E306 of the Indiana Government Center South ("IGCS"), Indianapolis, Indiana. Petitioner and the Indiana Office of Utility Consumer Counselor ("OUCC") attended the Prehearing Conference. No members of the general public attended. Thereafter, the Commission issued a Prehearing Conference Order on October 6, 2004, in which it established dates for the prefiling of testimony and exhibits by the parties and the hearing of evidence. On October 15, 2004, Petitioner filed the direct testimony and exhibits constituting its case-in-chief. The OUCC did not prefile direct testimony in this Cause.

On January 19, 2005, Petitioner and the OUCC filed a Joint Stipulation and Agreement, together with a supporting exhibit (the "Settlement Agreement") and a form of proposed order. In addition, on January 20, 2005, Petitioner filed supplemental testimony and exhibits in further support of the Settlement Agreement.

Based on issues raised by Commission staff, the presiding Administrative Law Judge, on January 24, 2005, sent an e-mail to parties' counsel requesting responses to certain clarifying questions. Petitioner filed responses to these clarifying questions on January 26, 2005. In its responses, Petitioner noted that its requested return on net plant was inadvertently stated in the exhibit supporting the Settlement Agreement. Petitioner stated that its requested return on net plant should be \$3,203,487 and not \$3,253,202 as stated in the exhibit supporting the Settlement Agreement. While this correction also corrected certain other "Per Petitioner" amounts in the exhibit supporting the Settlement Agreement, it did not affect any of the negotiated amounts that the parties have proposed in their Settlement Agreement for approval by the Commission.

Pursuant to notice duly published as required by law, a public hearing was held in this Cause on January 27, 2005, at 9:30 a.m. in Room E-306 of the IGCS, Indianapolis, Indiana.

Petitioner, the OUCC and staff members of the Commission attended the evidentiary hearing. No members of the general public attended.

At the evidentiary hearing, Petitioner offered into evidence the prefiled direct and supplemental testimony and exhibits of its General Manager and CEO, David W. Osburn; the direct testimony and exhibits of its Finance Manager, Tracy L. Garrett; and the direct and supplemental testimony and exhibits of William Steven Seelye, Principal and Senior Consultant of The Prime Group, LLC. Petitioner also offered into evidence its prefiled responses to the Commission's clarifying questions which corrected certain "Per Petitioner" amounts as found in the exhibit supporting the Settlement Agreement. The OUCC did not object to the admission into evidence of Petitioner's testimony and exhibits and waived cross-examination of Petitioner's witnesses. In addition, the parties offered into evidence Joint Exhibit 1, which consisted of the Settlement Agreement including the supporting exhibit, and Joint Exhibit 2, a form of proposed order for the Commission's consideration.

Based upon the applicable law and the evidence herein and being duly advised, the Commission now finds that:

- 1. <u>Statutory Notice and Commission Jurisdiction</u>. Due, legal and timely notice of the public hearings conducted by the Commission in this Cause was given and published as required by law. The City of Richmond, Indiana is a municipality, owning and operating its own electric utility known as Richmond Power & Light. Petitioner is a "municipally-owned utility" within the meaning of the Public Service Commission Act, as amended. Petitioner is subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana. The Commission, therefore, has jurisdiction over the parties and the subject matter of this Cause.
- 2. Petitioner's Characteristics. Petitioner is authorized to and is engaged in the furnishing of electricity to residential, commercial, industrial and other customers located within its assigned service area. Petitioner owns and operates electric transmission, distribution, substation and power production facilities, including coal-fired electric generating plants of a combined capacity of 93 MW, which facilities are used and useful in providing adequate and reliable service to its approximately 22,000 customers. The City of Richmond, Indiana is a member of the Indiana Municipal Power Agency ("IMPA") and Petitioner dedicates the entire output and capacity of its generating units to IMPA under a Capacity Purchase Agreement. Petitioner purchases all of its power and energy requirements from IMPA, pursuant to the terms of a Power Sales Contract.

Petitioner's current schedule of rates and charges was placed into effect following the Commission's March 19, 1997 Order in Cause No. 40434, which approved an overall decrease in Petitioner's rates and charges. Petitioner's base rates were last increased following the Commission's Order in Cause No. 39465, dated December 30, 1992.

David W. Osburn testified that in the twelve (12) years since its last rate increase, RP&L's costs have increased and, in addition, RP&L lost its largest industrial customer, Dana Corporation, during the last year. Petitioner engaged The Prime Group, LLC to perform an analysis of Petitioner's revenue requirements for the twelve (12) months ended March 31, 2004,

and to conduct a cost of service analysis. Based on the results of these analyses and input from RP&L's management, RP&L's Board of Directors adopted a resolution on August 16, 2004, recommending that the City's Common Council adopt a rate ordinance that increases test year revenues by approximately 8.7% and more accurately reflects cost of service and reduces subsidy excess revenues between customer classes. On September 21, 2004, the City's Mayor approved the Common Council's ordinance to increase Petitioner's annual operating revenue by approximately 7.86% and to adjust rates to more accurately reflect cost of service and reduce the level of subsidy/excess revenues between customer classes.

- Relief Requested and Proposed Settlement. In its case-in-chief, Petitioner requested approval to increase its rates and charges for electric service to recover the statutory revenue requirements enumerated in I.C. 8-1.5-3-8, including a 5.1% return on rate base. Petitioner requested an increase of \$3,501,421 in its annual operating revenue from providing retail electric service, which represented a proposed increase of 7.85%. Petitioner also proposed to restructure its rates based upon the results of the cost of service study. Pursuant to subsequent negotiations with the OUCC, Petitioner has agreed to a revenue increase of \$2,897,420, which represents an increase of 6.5% in its annual revenues from retail rates and charges.
- 4. <u>Test Period</u>. The test period selected for determining Petitioner's revenues and expenses reasonably incurred in providing electric utility service to its customers was the twelve months ended March 31, 2004. With adjustments for changes that are fixed, known and measurable, we find this test period is sufficiently representative of Petitioner's normal operations to provide reliable data for ratemaking purposes.
- **5.** Operating Revenue. Based on the evidence presented, the OUCC and the Petitioner agree that Petitioner's pro forma operating revenues for the test period were \$63,120,871, which consisted of \$44,588,264 from rates and charges collected from retail customers, \$18,017,753 from sales of electricity for resale to IMPA, and \$514,854 in miscellaneous revenues.
- **6.** <u>Petitioner's Revenue Requirement</u>. I.C. 8-1.5-3-8(c) establishes the revenue requirement elements which this Commission must apply in determining reasonable and just rates and charges for a municipally-owned utility:
 - (c) "Reasonable and just rates and charges for services" means rates and charges that produce sufficient revenue to:
 - (1) pay all the legal and other necessary expenses incident to the operation of the utility, including:
 - (A) maintenance costs;
 - (B) operating charges;
 - (C) upkeep;
 - (D) repairs;
 - (E) depreciation; and
 - (F) interest charges on bonds or other obligations, including leases;
 - (2) provide a sinking fund for the liquidation of bonds or other obligations, including leases;
 - (3) provide a debt service reserve for bonds or other obligations, including

leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals:

- (4) provide adequate money for working capital;
- (5) provide adequate money for making extensions and replacements to the extent not provided for through depreciation in subdivision (1); and
- (6) provide money for the payment of any taxes that may be assessed against the utility.

It is the intention of I.C. 8-1.5-3-8 that rates and charges produce an income sufficient to maintain a municipally-owned utility's property in a sound physical and financial condition to render adequate and efficient service. Rates and charges that are too low to meet the foregoing requirements are unlawful. Petitioner's municipal legislative body also elected to include a reasonable return on the utility plant of the electric utility in accordance with I.C. 8-1.5-3-8(e).

As noted above, the parties have agreed to the level of Petitioner's annual revenue requirements, which are reflected in the Settlement Agreement and summarized below. Based on the evidence, we now make the following findings regarding Petitioner's revenue requirements.

- a. <u>Cost of Purchased Power</u>. The Petitioner and the OUCC have agreed to an amount which Petitioner should use for the operating charge of its pro forma purchased power cost. We find that \$33,959,608 should be used as the cost of purchased power, and is reasonable and supported by the evidence.
- b. Other Operating and Maintenance Expenses. The Petitioner and the OUCC have agreed to pro forma other operation and maintenance expenses, including taxes other than income taxes, of \$24,148,191. We find that the amount of such other operation and maintenance expenses is reasonable and supported by the evidence.
- c. <u>Payment in Lieu of Taxes</u>. Petitioner and the OUCC have agreed that Petitioner's revenue requirement for payments in lieu of taxes is \$561,740. We find this amount to be reasonable and supported by the evidence.
- d. **Depreciation Expense.** Petitioner and the OUCC have agreed that Petitioner's revenue requirement for depreciation expense (extensions and replacements) is \$4,539,910. We find this amount to be reasonable and supported by the evidence.
- e. **Return on Net Plant**. Petitioner and the OUCC have agreed that Petitioner's annual revenue requirement based upon a reasonable return on net plant is \$3,023,202, which represents a 5.10% return on Petitioner's net plant in service. We find this amount to be reasonable and supported by the evidence.
- f. Non-Operating Revenue. Petitioner and the OUCC have agreed that Petitioner will earn approximately \$254,925 in adjusted, non-operating revenue per year and that such amount should be used as an offset to Petitioner's annual revenue requirements. We find this amount to be reasonable and supported by the evidence.

- g. <u>Utilities Receipts Tax</u>. Petitioner and the OUCC have agreed that Petitioner's cash revenue requirements should be increased by \$40,564 to account for Indiana Utility Receipts Tax resulting from the annual increase in operating revenues.
- h. <u>Annual Revenue Requirements</u>. Based on the findings above, we find that Petitioner's annual net revenue requirement is \$66,018,290, as detailed below:

Cost of Purchased Power	\$33,959,608
Other Operation and Maintenance Expense	24,148,191
Payment in Lieu of Taxes	561,740
Depreciation	4,539,910
Return on Plant	3,023,202
Total Revenue Requirement	\$66,232,651
Less: Non-Operating Revenue	(\$254,925)
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Net Revenue Requirements \$66,018,290

\$40,564

Plus: Utility Receipts Tax (1.4% of increase)

We find, therefore, that Petitioner's current rates and charges, which produce annual operating revenues of \$63,120,870, are insufficient to provide for Petitioner's annual cash revenue requirements and are, therefore, unreasonable and unlawful.

- 7. <u>Authorized Rates</u>. To meet its revenue requirement of \$66,018,290, Petitioner's current rates and charges for retail electric service should be increased so as to produce additional operating revenues of \$2,897,420, representing a 6.5% increase in Petitioner's annual revenues from retail rates and charges, as shown in the parties' Settlement Agreement.
- 8. <u>Cost of Service Study and Rate Design</u>. Petitioner provided a cost of service study prepared by The Prime Group, LLC as Petitioner's Exhibit Nos. WSS-7 through WSS-14. The OUCC accepted Petitioner's cost of service study. The Commission finds that Petitioner's cost of service study is accurate and should be used in evaluating and establishing rates in this proceeding.
- **Phase-in of Rates**. Petitioner and the OUCC agreed that the aggregate increase in rates and charges would be implemented in two phases. Upon the issuance of this Order, Petitioner will be authorized to file with the Commission a new schedule of rates and charges implementing Phase I of the rate increase, which will produce additional annual operating revenues from retail sales of approximately \$1,338,814, which consists of \$1,330,279 from rates and charges and \$8,535 from increased reconnection charges. Petitioner will be authorized to implement Phase II of the rate increase on January 1, 2006, to produce additional annual operating revenues from retail sales of approximately \$1,558,606 which, when added to the Phase I rate increase, implements the total proposed revenue increase of \$2,897,420.

In his supplemental testimony, David W. Osburn testified that Petitioner's Purchased Power Cost Adjustment Tracking Factor, which tracks IMPA's fuel costs, increased as of January 1, 2005. In order to mitigate the combined effect on customers of the increase in the Purchased Power Cost Adjustment Tracking Factor and this general rate increase, RP&L decided to phase in the increase in its general rates and charges. The Commission finds the proposed phase-in of the increase in Petitioner's rates and charges as agreed upon in the Settlement Agreement is appropriate and in the public interest.

10. <u>Approval of Revised Rate Schedules.</u> In the Settlement Agreement, the parties agreed to certain changes to Petitioner's rate schedules. The agreed-upon rate schedules were attached to the Supplemental Testimony of William Steven Seelye as Petitioner's Exhibits WSS-S-5 and WSS-S-6. The Commission finds that Petitioner's revised rate schedules as set forth in Petitioner's Exhibits WSS-S-5 and WSS-S-6 should be approved.

The tables below, taken from Mr. Seelye's Supplemental Testimony, summarize the effects of the phased-in rate increase on the various customer classes. The revenues projected in these tables are rounded and exclude the amount attributable to an increase in reconnection charges (\$8,535).

TABLE 1
Proposed Phase I Revenue Increase

Customer Class	Proposed Increase By Class	Percentage Increase
Residential – Rate R	\$ 452,344	3.82%
Commercial Lighting Service – Rate CL	\$ 185,471	7.62%
General Power Service – Rate GP	\$ 265	0.01%
Outdoor Lighting Service – Rate OL	\$ 14,489	7.60%
Industrial Service – Rate IS	\$ 81,866	2.89%
Industrial Service Coincident Peak – Rate IS	\$ 306,773	2.87%
Large Power Service – Rate LPS	\$ 249,555	2.43%
Large Power Service Coincident Peak – Rate LPS	\$ 17,167	2.51%
General Electric Heating – Rate GEH	\$ 5,613	1.93%
Street Lighting Service – Rate N	\$ 1,058	1.91%
Municipal Street Lighting Service – Rate M	\$ 12,793	1.92%
Electric Heating Schools – Rate EHS	\$ 2,885	1.89%
Total Sales to Ultimate Consumers	\$ 1,330,279	2.98%

TABLE 2
Proposed Phase II Revenue Increase

Customer Class	Proposed Increase By Class	Percentage Increase
Residential – Rate R	\$ 980,762	8.28%
Commercial Lighting Service – Rate CL	\$ 403,087	16.56%
General Power Service – Rate GP	\$ 265	0.01%
Outdoor Lighting Service – Rate OL	\$ 31,462	16.51%
Industrial Service – Rate IS	\$ 166,677	5.88%
Industrial Service Coincident Peak – Rate IS	\$ 627,803	5.88%
Large Power Service – Rate LPS	\$ 591,336	5.75%
Large Power Service Coincident Peak – Rate LPS	\$ 39,521	5.79%
General Electric Heating – Rate GEH	\$ 12,156	4.19%
Street Lighting Service – Rate N	\$ 2,297	4.14%
Municipal Street Lighting Service – Rate M	\$ 27,779	4.17%
Electric Heating Schools – Rate EHS	\$ 6,294	4.13%
Total Sales to Ultimate Consumers	\$ 2,889,439	6.48%

11. <u>Settlement Agreement.</u> The Settlement Agreement states the parties agree that the terms and conditions set forth therein represent a fair, reasonable and just resolution of all the issues in this Cause. The Settlement Agreement further provides that it shall not be construed or cited as precedent by any person or deemed an admission by any party in any other proceeding except as necessary to enforce its terms before the Commission, or before any court of competent jurisdiction on these particular issues.

After reviewing the terms of the parties' Settlement Agreement, we find that it is reasonable; that the terms of the Settlement Agreement are in the public interest; and that it represents a desirable and lawful resolution of the matters at issue in this proceeding. Therefore, we find that the Settlement Agreement should be approved.

With regard to future use, citation, or precedent of the Settlement Agreement, we find our approval of the terms of the Settlement Agreement should be construed in a manner consistent with our finding in one of Petitioner's previous rate Orders, and now often referenced in Commission Orders approving settlements: <u>In Re Richmond Power & Light</u>, Cause No. 40434, Order dated March 19, 1997.

IT IS, THEREFORE, ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The Settlement Agreement, a copy of which is attached to this Order, shall be and hereby is approved, consistent with the findings herein. The terms and conditions of the Settlement Agreement shall be and hereby are incorporated herein as part of this Order.

- 2. Petitioner is hereby authorized to increase its annual revenue from retail rates and charges by \$2,897,420, so as to produce total annual operating revenue of \$66,018,290, representing an approximate 6.5% increase in its rates and charges for the sale of electricity to retail customers, as shown in the Settlement Agreement.
- 3. Petitioner's rate increase is to be implemented in two phases, as set forth in Finding No. 9, and consistent with the rate design found appropriate in Finding No. 8 herein.
- 4. Petitioner shall file with the Electricity Division of the Commission new schedules of rates and charges before placing in effect the rate increase authorized herein, which schedules, when approved by the Electricity Division, shall be effective and shall cancel all previously approved schedules of rates and charges in conflict therewith.
- 5. In accordance with I.C. 8-1-2-70, Petitioner shall pay the following itemized charges within twenty (20) days from the date of this Order to the Secretary of the Commission:

Commission Charges	\$200.00
Reporting Charges	36.54
Legal Advertising Charges	59.43
OUCC Charges	320.00
TOTAL	\$615.97

6. This Order shall be effective on and after the date of its approval.

McCARTY, RIPLEY, HADLEY, LANDIS AND ZIEGNER CONCUR:

APPROVED: FEB 0 9 2005

I hereby certify that the above is a true and correct copy of the Order as approved.

Nancy E. Manley

Secretary to the Commission

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IN THE MATTER OF THE PETITION OF THE	REGULATORY COMMISSION
CITY OF RICHMOND, INDIANA, BY ITS)
MUNICIPAL ELECTRIC UTILITY,)
RICHMOND POWER & LIGHT FOR) CAUSE NO. 42713
APPROVAL OF A NEW SCHEDULE OF RATES)
AND CHARGES FOR ELECTRIC SERVICE)

JOINT STIPULATION AND AGREEMENT BETWEEN THE CITY OF RICHMOND AND THE INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

On August 19, 2004, the City of Richmond, Indiana, by its municipal electric utility, Richmond Power & Light ("RP&L"), filed with the Indiana Utility Regulatory Commission ("Commission") its Verified Petition for authority to increase its rates and charges for electric utility service, and for approval of a new schedule of rates and charges applicable thereto. Prior to the public hearing in this Cause, RP&L and the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively the "parties") communicated with each other regarding the possibility of settling this Cause and have reached an agreement with respect to all the issues presently before the Commission. RP&L and the OUCC agree to the following matters and request the Commission to enter the proposed final order which is attached hereto as Joint Settlement Exhibit 2.

1. RP&L's Operating Revenues. The parties have reached an agreement concerning the revenue requirements for RP&L under IC 8-1.5-3-8, which agreement is reflected in Joint Settlement Exhibit 1. The parties agree that RP&L's total test year operating revenues are \$63,120,870, which consists of \$44,588,263 from rates and charges collected from retail customers, \$18,017,753 from sales of electricity for resale to the Indiana Municipal Power

Agency and \$514,854 in miscellaneous revenues. The parties further agree that certain adjusted, non-operating revenues for the test year in the amount of \$254,925 should be deducted in determining the net amount of revenues to be recovered by rates and charges for electric service. As shown on Joint Settlement Exhibit 1, the parties also agree that RP&L's pro forma operating revenues from retail sales should be increased by \$2,897,420 in arriving at the pro forma total operating revenues at proposed rates of \$66,018,290, representing a 6.5% increase in rates and charges from sales to retail customers.

- 2. <u>RP&L's Annual Revenue Requirements</u>. RP&L's annual revenue requirements determined pursuant to IC 8-1.5-3-8 on the evidence of record and agreed to by the parties, are as follows:
- a. <u>Cost of Purchased Power</u>. RP&L's annual revenue requirement for the cost of purchased power is \$33,959,608.
- b. Other Operating and Maintenance Expenses. RP&L's annual revenue requirement for other operating and maintenance expenses, including taxes other than income taxes, is \$24,148,191.
- c. <u>Payment in Lieu of Taxes</u>. RP&L's annual revenue requirement for payment in lieu of taxes is \$561,740.
- d. <u>Depreciation Expense</u>. RP&L's annual revenue requirement for depreciation expense is \$4,539,910.
- e. <u>Return on Plant</u>. RP&L's annual revenue requirement for a reasonable return on net plant is \$3,023,202.
- f. Non-Operating Revenue. The parties agree that RP&L's total cash revenue requirement should be offset by the amount of RP&L's adjusted, non-operating revenues in the amount of \$254,925.

- g. <u>Utility Receipts Tax</u>. The parties agree that RP&L's total cash revenue requirement should be increased by \$40,564 to account for the increase in RP&L's Indiana Utility Receipts Tax resulting from the proposed rate increase.
- 3. <u>RP&L's Aggregate Annual Revenue Requirement</u>. RP&L's annual net revenue requirement is \$66,018,290, as detailed below:

Cost o	f Purchased Power	\$33,959,608
Other	Operation and Maintenance Expense	24,148,191
Payme	ent in Lieu of Taxes	561,740
Depre	ciation	4,539,910
Return	on Plant	3,023,202
Total l	Revenue Requirement	\$66,232,651
Less:	Non-Operating Revenues	(\$254,925)
Plus:	Utility Receipts Tax (1.4% of increase)	40,564
	Net Revenue Requirement	\$66,018,290

- 4. Amount of Stipulated Rate Increase and Approval of Changes to Rate Schedules. The parties agree that RP&L's current rates and charges for electric service should be increased so as to produce additional operating revenues from retail sales of \$2,897,420 as shown in Joint Settlement Exhibit 1. The parties further agree that the red-lined changes to RP&L's rate schedules included in Petitioner's Exhibit WSS-19, modified to reflect the parties' agreement with respect to the increase in Petitioner's rates and charges should be approved. The parties also agree that Rate Schedules for LPS and IPS Optional Coincident Peak service should be further revised to include additional language in the Availability section to ensure that significant KW demand is moved from the on-peak period to the off-peak period.
- 5. <u>Cost-of-Service Study</u>. The OUCC and RP&L agree that the cost-of-service study prepared by The Prime Group, LLC (submitted as Petitioner's Exhibits WSS-7 through WSS-14 and described in the direct testimony of William Steven Seelye (WSS at 21-47)) is

reasonable and should be used by Petitioner to establish a new schedule of rates and charges implementing the authorized increase in operating revenues. The parties further agree to the proposed reductions in subsidy/excess revenues reflected in RP&L's cost-of-service study and resulting rate design.

- 6. Phase-in of Rates. For the reasons set forth in RP&L's supplemental testimony and exhibits, the parties agree that the agreed-upon aggregate increase in annual revenues from rates and charges from retail sales will be implemented in two phases. Upon the Commission's approval of a final order approving the terms and conditions of this Joint Stipulation and Agreement (the "Settlement Agreement"), RP&L will implement an increase in its retail rates and charges to produce additional annual operating revenues from retail sales of approximately \$1,338,814. On January 1, 2006, RP&L will increase its retail rates and charges to produce additional annual operating revenues from retail sales of approximately \$1,558,606. Following the implementation of the Phase II increase, RP&L's rates and charges should produce additional operating revenues from retail sales of approximately \$2,897,420.
- 7. Admission of Evidence. The OUCC stipulates to the admission into evidence of RP&L's prefiled testimony and exhibits, and its supplemental testimony and exhibits, and waives cross-examination of RP&L's witnesses. The parties will jointly sponsor this Settlement Agreement and Joint Settlement Exhibit 1 at the January 27, 2005 hearing. The parties also will jointly sponsor the proposed order attached hereto as Joint Settlement Exhibit 2, implementing the terms of this Settlement Agreement.
- 8. <u>Mutual Conditions on Settlement Agreement</u>. RP&L and the OUCC agree for purposes of establishing new rates and charges for RP&L that the terms and conditions set forth in this Settlement Agreement are supported by the evidence and based on the parties' independent review of the evidence, represent a fair, reasonable and just resolution of all the

issues in this Cause, subject to their incorporation in a final Commission order ("Final Order") without modification or further condition, which may be unacceptable to either party. If the Commission does not approve this Settlement Agreement in its entirety and incorporate it into a Final Order as provided above, it shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the parties. RP&L and the OUCC represent that there are no other agreements in existence between them relating to the matters covered by this Settlement Agreement.

- 9. Non-Precedential. As a condition precedent to the Settlement Agreement, the parties condition their agreement on the Commission providing assurance in the Final Order issued herein that it is not the Commission's intent to allow this Settlement Agreement or the Order approving it to be used as an admission or as a precedent against the signatories hereto except to the extent necessary to enforce the terms of the Settlement Agreement. The parties agree that this Settlement Agreement shall not be construed nor be cited as precedent by any person or deemed an admission by any party in any other proceeding except as necessary to enforce its terms before the Commission, or before any court of competent jurisdiction on these particular issues. This Settlement Agreement is solely the result of compromise in the settlement process and except as provided herein is without prejudice to and shall not constitute a waiver of any position that either of the parties may take with respect to any or all of the items resolved herein in any future regulatory or other proceedings and, failing approval by the Commission, shall not be admissible in any subsequent proceedings.
- 10. <u>Authority to Stipulate</u>. The undersigned have represented and agreed that they are fully authorized to execute this Settlement Agreement on behalf of their designated clients who will be bound thereby.

Respectfully submitted,

Dated: January / 9, 2005

CITY OF RICHMOND, INDIANA

By: Michael B. Cracraft,
Attorney for the City of Richmond

Dated: January <u>1</u>9, 2005

INDIANA OFFICE OF UTILITY CONSUMER COUNSILOR

Its Attorney

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Revenue Requirement	Per Petitioner	Per Settlement	More/Less
Cost of Purchased Power	\$33,959,608	\$33,959,608	\$0
Other Operation and Maintenance Expense	\$23,045,105	\$22,976,747	(\$68,358)
Payment in Lieu of Taxes	\$ 645,090	\$561,740	(\$83,350)
Depreciation	\$4,539,910	\$4,539,910	\$0
Taxes Other Than Income	\$1,179,376	\$1,171,444	(\$7,932)
Return on Plant	\$3,253,202	\$3,023,202	(\$230,000)
Non-Operating Revenues	\$ <u>0</u>	(<u>\$254,925</u>)	(\$254,925)
Total Revenue Requirement	\$66,622,291	\$65,977,726	(\$644,565)
Utility Receipts Tax (anticipated increase)	\$49,716	\$40,564	(\$9,152)
Net Revenue Requirements	\$66,672,007	\$66,018,290	(\$653,717)
Pro Forma Present Rate Revenue	\$63,120,870	\$63,120,870	\$0
Less: Sales for Resale to IMPA	(\$18,017,753)	(\$18,017,753)	\$0
Less: Miscellaneous Revenues	(<u>\$514,854</u>)	(<u>\$514,854</u>)	\$0
Present Revenue from Retail Customers	\$44,588,263	\$44,588,263	\$0
Pro Forma Present Rate Increase	\$3,551,137	\$2,897,420	(\$653,717)
Percentage Increase in Retail Revenue	7.96%	6.50%	